

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTOPHER LEFEVRE,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CYNTHIA A. LEFEVRE,

Respondent-Appellant,

and

DAVID MICHAEL LEFEVRE,

Respondent.

In the Matter of AMANDA LEFEVRE, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CYNTHIA A. LEFEVRE,

Respondent-Appellant,

and

DAVID MICHAEL LEFEVRE,

Respondent.

UNPUBLISHED
March 14, 2006

No. 264541
Washtenaw Circuit Court
Family Division
LC No. 02-000180-NA

No. 264542
Washtenaw Circuit Court
Family Division
LC No. 02-000181-NA

Before: Wilder, P.J., and Zahra and Davis, JJ.

PER CURIUM.

Respondent-appellant Cynthia LeFevre (hereinafter "respondent") appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The burden of proof is on the petitioner to prove a statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). This Court reviews the trial court's findings of fact for clear err. MCR 3.977(J). A finding is clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Termination need only be supported by a single statutory ground. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Here, the trial court terminated respondent's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j).

A parent's failure to comply with a parent-agency agreement is evidence of the parent's failure to provide proper care and custody of the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). "By the same token, the parent's *compliance* with the parent-agency agreement is evidence of her ability to provide proper care and custody." *Id.*

There was clear and convincing evidence to support the trial court's decision with respect to each of the statutory grounds because respondent failed to complete the terms of her parent-agency agreement. The children were originally removed from respondent's custody because of her alcohol abuse, chaotic conditions in the family home, and the violent behavior of respondent's sons.¹ Respondent's treatment plan was designed to address these problems and required that she (1) stop using alcohol or other drugs, (2) address her mental health needs and improve her emotional stability, (3) complete an approved parenting class, and (4) improve the cleanliness, organization and general condition of her home.

In order to demonstrate that she had stopped using alcohol, respondent was required to submit to twice weekly random drug tests. Respondent did not satisfy this requirement because she failed to submit to testing after October 28, 2004. She also failed to verify her attendance at Alcoholics Anonymous meetings after that date.

We disagree with respondent's argument that it was improper to terminate her parental rights for failure to comply with this requirement because there was no evidence that she was actually using alcohol during the period she was not tested. There were reports that respondent was continuing to use alcohol and the children's foster parent reported smelling alcohol on respondent during a meeting in November 2004. Regular testing was the only reasonable means to monitor and evaluate respondent's progress in this area. Respondent's failure to comply with

¹ Respondent's parental rights to an older son were not terminated.

the screening requirement was properly considered by the trial court for purposes of determining whether respondent had resolved the issue of her alcohol abuse.

Furthermore, respondent did not successfully meet the second goal of her treatment plan when she did not successfully complete her individual therapy. Her therapist did not believe that respondent was invested in the therapy and apparently had not benefited from the experience. Therapy, more so than alcohol testing, was critical in helping respondent understand why she had resumed drinking in the past when the children were returned and why she could not control the children without resorting to abuse and violence.

In addition, although respondent completed a parenting class, there was testimony that she was unable to put into practice what she learned in the class. Respondent could intellectually understand what she needed to do to properly care for her children, but was unable to put that knowledge to use. She continued to have problems properly managing the children's behavior after completing the parenting course.

Because respondent failed to successfully address the elements of her treatment plan, she did not rectify the conditions that caused the children to be removed from her custody. Therefore, termination of her parental rights was proper under § 19b(3)(c)(i). Moreover, respondent's failure to address her alcohol abuse and inability to control her children also supported termination of her parental rights under § 19b(3)(g); these problems prevented her from properly caring for the children and there was no reasonable expectation that she would be able to properly care for them within a reasonable time, given their ages. Termination of respondent's parental rights was also appropriate under § 19b(3)(j), because respondent's failure to address these problems placed the children at risk of harm if returned to respondent's custody.

Although respondent completed a medical assistant training program while also working part time while the proceedings were pending, she failed to satisfy the critical goals of her treatment plan to demonstrate her commitment to providing a safe and secure home for her children.

We reject respondent's argument that even if the evidence supported termination of her parental rights to Christopher, it did not support termination of her parental rights to Amanda. Although Amanda did not present the same parenting challenges as Christopher, there was evidence that Amanda was beginning to become manipulative and disrespectful to respondent, similar to the behavior exhibited by her older brothers. Amanda was also becoming hostile and angry. While respondent and Amanda generally had a good relationship in the past, Amanda had more recently become frustrated with respondent because of her failure to stop drinking. In addition, Amanda was beginning to demonstrate the same types of behavioral problems that her older brothers had due to respondent's inability to control matters. Because respondent had not sufficiently addressed the underlying problems in this case, the trial court correctly found it had no reason to believe that respondent could properly care for Amanda for the long term.

Respondent also argues that the trial court erred in terminating her parental rights based on the children's best interests. Once the petitioner proves a statutory basis for termination by clear and convincing evidence, "the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo, supra* at 354; MCL 712A.19b(5). The court should decide the best

interests question based upon all of the evidence presented and without regard to which party produced the evidence. *In re Trejo, supra* at 352-354. The court's best interest decision is also reviewed for clear error. *Id.* at 356-357.

We agree with the trial court that the evidence on the whole record did not show that termination of respondent's parental rights was not in the children's best interests. Respondent's bond to these children was not so strong that termination of her parental rights was clearly contrary to their best interests. In Amanda's case, her bond with respondent had been stronger in the past, but more recently appeared to dissipate. Furthermore, Amanda was beginning to experience her own behavioral problems, apparently in response to her continued frustration with respondent's failure to make necessary changes. Any bond respondent had with Amanda was not so strong that it could overcome the continuing problems respondent had caring for her children. The evidence did not clearly show that termination of respondent's parental rights to Amanda was against her best interests.

Christopher's case presented a closer question because of the likelihood that he would remain in a residential setting or group home until he could live independently. However, the record discloses that the tumultuous and unstable environment that respondent provided for the children contributed to Christopher's behavioral problems. Allowing Christopher to continue his relationship with respondent would not provide him with the type of stability he needs, and more likely continue the environment that contributed to his behavior and emotional problems. Therefore, we cannot say that the trial court's decision to terminate respondent's parental rights to Christopher was clearly erroneous.

Affirmed.

/s/ Kurtis T. Wilder

/s/ Brian K. Zahra

/s/ Alton T. Davis